

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

CALVIN ROUSE,

Plaintiff,

v.

DOUG WADDINGTON, *et al.*,

Defendants.

Case No. C06-5183RJB

ORDER GRANTING  
DEFENDANT'S MOTION  
FOR A MORE DEFINITE  
STATEMENT

This 42 U.S.C. § 1983 Civil Rights action has been referred to the undersigned Magistrate Judge pursuant to Title 28 U.S.C. §§ 636(b)(1)(A) and 636(b)(1)(B) and Local Magistrates' Rules MJR 1, MJR 3, and MJR 4. Before the court is defendant's motion for a more definite statement (Dkt. # 42).

The amended complaint names seven defendants. Plaintiff lists headings for two Eighth Amendment causes of action, excessive use of force, and inadequate medical treatment (Dkt. # 19, page 1). He also mentions the Fourteenth Amendment. It is not clear to the court what Fourteenth Amendment cause of action plaintiff is attempting to raise (Dkt. # 19). In addition to his constitutional causes of action, plaintiff discusses a number of tort concepts such as intentional infliction of emotional distress, assault and battery, and loss of property (Dkt. # 19, pages 3 to 10).

1 The complaint wanders. Plaintiff begins with a “synopsis” that raises issues such as racial  
2 profiling and equal protection (Dkt. # 19, page 2). The complaint then addresses intentional  
3 infliction of emotional distress without tying the alleged conduct to the named defendants in any  
4 detail. Plaintiff next raises Assault and Battery and Inadequate Medical Care and these pages of the  
5 complaint, pages 5 to 10 are adequate although lengthy. On page10, plaintiff mentions loss of  
6 property, but, he does not tie the alleged loss to any named defendant. Defendants refer to the  
7 complaint as “prolix.” (Prolix is defined as “wordy or tedious, tending to speak or write at great  
8 length”). After careful review of the complaint the court concurs. Defendants motion for a more  
9 definite statement is well taken.

10 Neither the court nor the defendants, should be in a position of having to guess what causes  
11 of action plaintiff is alleging in his complaint. The defendants, under Fed. R. Civ. P. 8, are entitled to  
12 a short plain statement for each cause of action that explains three things: 1) who the defendants are  
13 for that cause of action, 2) what are the facts relating to the cause of action, and 3) what relief is the  
14 plaintiff seeking.

15 In order to state a claim under 42 U.S.C. § 1983, a complaint must allege that (1) the conduct  
16 complained of was committed by a person acting under color of state law and that (2) the conduct  
17 deprived a person of a right, privilege, or immunity secured by the Constitution or laws of the United  
18 States. Parratt v. Taylor, 451 U.S. 527, 535 (1981), overruled on other grounds, Daniels v. Williams,  
19 474 U.S. 327 (1986). Section 1983 is the appropriate avenue to remedy an alleged wrong only if  
20 both of these elements are present. Haygood v. Younger, 769 F.2d 1350, 1354 (9th Cir. 1985), cert.  
21 denied, 478 U.S. 1020 (1986).

22 Defendant’s motion for a more definite statement is **GRANTED**. Plaintiff will be given one  
23 month, until **May 18, 2007**, to file a second amended complaint. Given the history of this action,  
24 plaintiff is cautioned, the second amended complaint may not raise any allegations or claims that are  
25 not in his amended complaint filed August 28, 2006 (Dkt. # 19). Plaintiff may not add any new  
26 defendants. Plaintiff is expected to clarify for the court and counsel what causes of action he is  
27 pursuing, who are the defendants for each cause of action, and why each defendant is liable for each  
28

1 cause of action.

2 The Clerk is directed to send copies of this Order to plaintiff and counsel for defendant's and  
3 note a due date of **May 18, 2007**, for the second amended complaint.

4 DATED this 11 day of April, 2007.

5  
6 /S/ J. Kelley Arnold  
7 J. Kelley Arnold  
8 United States Magistrate Judge  
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